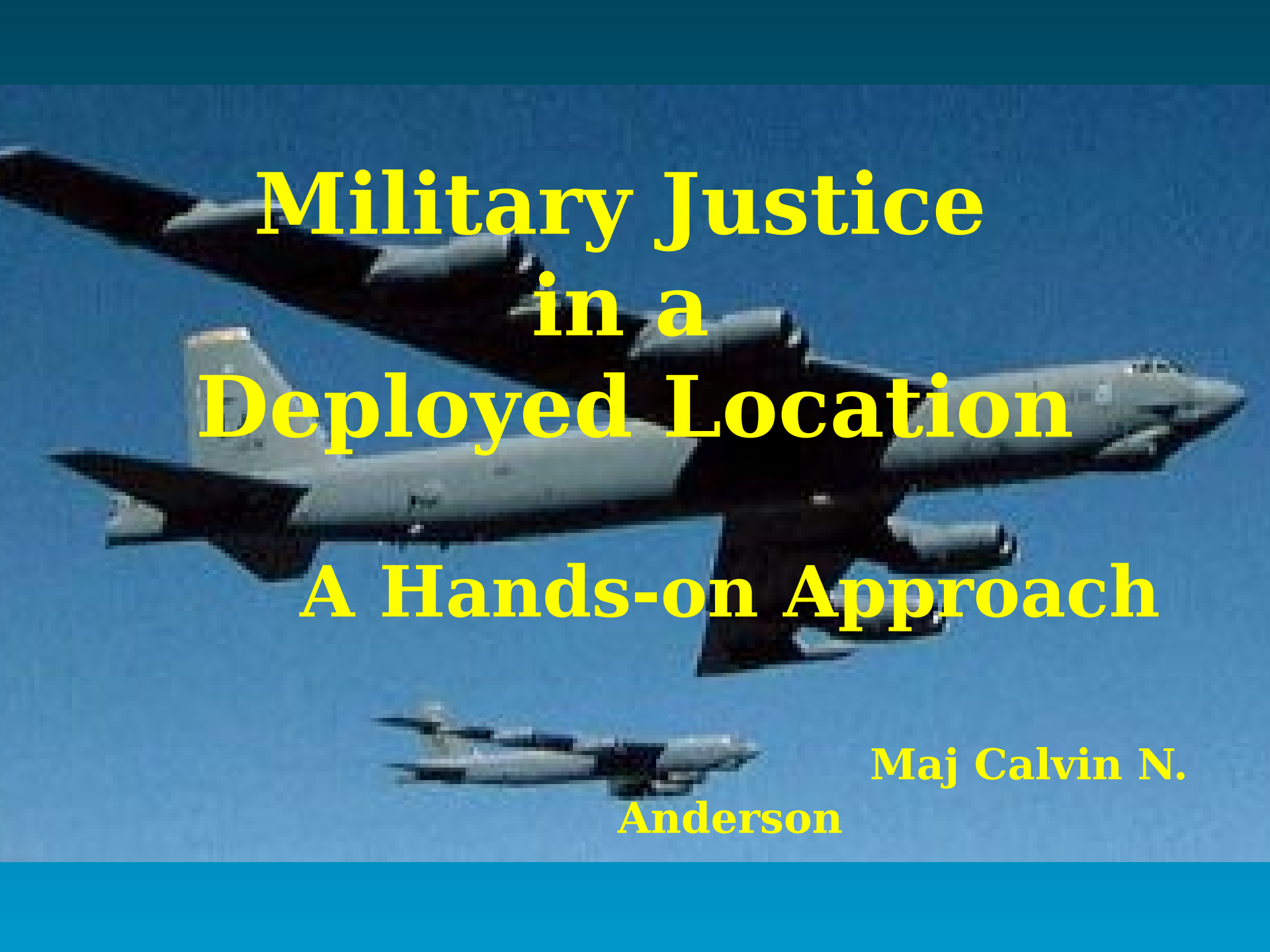




Military Justice in a Deployed Location

A Hands-on Approach

**Maj Calvin N.
Anderson**

Overview

- Foreign Criminal Jurisdiction
 - U.S. Position
 - Technical Aspects
- Trials in the AOR
 - Benefits
 - Obstacles

Foreign Criminal Jurisdiction

- 10 U.S.C. 1037
- DODD 5525.1, Status of Forces Policies and Information
- AFJI 51-706, Status of Forces Policies, Procedures, and Information
- AFI 51-703, Foreign Criminal Jurisdiction
- 37 L. Rev. 169, A Primer on Foreign Criminal Jurisdiction, Maj S. Lepper

Foreign Criminal Jurisdiction U.S. Position

- What's our Status?
 - NATO SOFA
 - A&T (Administrative and Technical Assistant)
 - U.N. Expert on Mission
 - Visiting Forces Acts
 - No Protection
- When Does U.S. Exercise Jurisdiction?

Foreign Jurisdiction

- Why Does U.S. Exercise Jurisdiction?
 - Political Reasons
 - Practical Considerations
- How Does U.S. exercise Jurisdiction?
 - We Ask
 - We Follow the Law

Foreign Jurisdiction

- The Players
 - DCO (Designated Commanding Officer)
 - Trial Observer
 - (MLA) Military Legal Advisor
 - GCM
- Funding
 - Military
 - Civilian

Foreign Jurisdiction

Nuts and Bolts

- First Establish Rapport
- Upon Arrest
 - Military--Seek Custody, Jurisdiction
 - Civilian--Can we adequately punish?
- Can Accused Receive Fair Trial?

Trial Observers

- Pre-selected List with DCO
- Familiar with Case
- Rights of Accused
- Obtain Witnesses
- Attend Trial (et al)
- Interpreters, Reports, Discrimination

Military Legal Advisor

- JA or Civilian Attorney
- Assist Accused
- Ensure Aware of Rights
- Not Attend Trial

Fees (10 USC 1037)

- Allowed
 - Counsel Fees
 - Court Costs
 - Bail
 - Other (Interpreters etc.)
- Not Allowed

FINES!!!

Fees (cont.)

- Approval Authority = GCM
- How Much to Pay?
- When to Pay
- When not to Pay?
 - CONTRACTORS!!!
 - Minor Offenses
 - Civil Cases? (sometimes)
- JAGs as Contracting Officers?

When Lt Snuffy Goes to Jail

(Foreign Penal Institution)

- Not Just Active Duty
- Treated Fairly at All Times
- Legal Assistance, Food, Clothing, etc.
- Who?
 - Service Concerned (CC, HC, JA & Docs)
- What?
 - Physical Exams
 - Visitation (30 days)
 - Personal Property

What We Don't Do

- Transfer Members Pending Foreign Action
- Pay Fines
- Represent (fund)
 - Contractors (and dependents)
 - HN, TCN Support (out of official duties)
 - HN, TCN Dependents
- Move or Even Breath without Top Cover

Military Justice

“There I was ...”

**COMMITMEN
T**

Time

Place

Manner
(Money)

- Initial Investigation
 - Limited Resources
 - Witness Rotation
 - Mission Needs

Charging

- To Charge or not to Charge
 - Need
 - Commitment
- What to Charge
 - Practical
 - Political

Negotiation

- **Oh to be ... the ADC**
 - **Witness Requests**
 - **Mom and Dad**
 - **Fellow Workers**
 - **Rotated Members**
 - **Experts**
 - **Paper Trails**

- And now ... the Rest of the Story
 - In Country
 - 12 + hours in the sun
 - Extreme loneliness
 - Extreme boredom
- Accused may not be interested in needless delay

Practical Concerns

- The Players
 - Trial Counsel
 - Defense Counsel
 - Judge
 - Court Reporter
 - Members

Practical Concerns

- Equipment
 - Fax Machine
 - Recording Equipment
 - Vehicle(s)
- Facilities
 - ADC Shop
 - Court Room

The Trial

- Uniform
- Servicing Legal Office Support (phone #)
- Breaks
 - Facilities
 - No interaction
- Processing Tips
 - Where is that ROT?

COMMITMENT



ATTITUDE